

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 First-Citizen Bank & Trust Company,

10 Plaintiff,

11 v.

12 John P Heard, et al.,

13 Defendants.
14

No. CV-25-02453-PHX-DWL

ORDER

15 The Court has an independent obligation to determine whether it has subject-matter
16 jurisdiction. *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999). Pursuant to
17 Rule 12(h)(3) of the Federal Rules of Civil Procedure, “[i]f the court determines at any
18 time that it lacks subject-matter jurisdiction, the court must dismiss the action.”

19 Diversity jurisdiction exists when there is complete diversity of citizenship between
20 the plaintiff and the defendants and the amount in controversy exceeds \$75,000, exclusive
21 of interests and costs. 28 U.S.C. § 1332. A controversy meets this requirement when “all
22 the persons on one side of it are citizens of different states from all the persons on the other
23 side.” *Strawbridge v. Curtiss*, 7 U.S. 267 (1806).

24 The party seeking to invoke diversity jurisdiction has the burden of proof.
25 *Lew v. Moss*, 797 F.2d 747, 749-50 (9th Cir. 1986). “[W]here the district court has doubts
26 about whether diversity exists, the district court may insist that the jurisdictional facts be
27 established or the case be dismissed, and for that purpose the court may demand that the
28 party alleging jurisdiction justify its allegations by a preponderance of evidence.” *Harris*

1 *v. Rand*, 682 F.3d 846, 851 (9th Cir. 2012) (cleaned up). “Absent unusual circumstances,
 2 a party seeking to invoke diversity jurisdiction should be able to allege affirmatively the
 3 actual citizenship of the relevant parties.” *Kanter v. Warner-Lambert Co.*, 265 F.3d 853,
 4 857 (9th Cir. 2001).

5 The complaint alleges that “Defendant John Heard is an individual residing in
 6 Maricopa County, Arizona.” (Doc. 1 ¶ 3.) This allegation is inadequate. As to individual
 7 natural persons, an allegation about an individual’s residence does not establish his or her
 8 citizenship for purposes of establishing diversity jurisdiction. “It has long been settled that
 9 residence and citizenship [are] wholly different things within the meaning of the
 10 Constitution and the laws defining and regulating the jurisdiction of the . . . courts of the
 11 United States; and that a mere averment of residence in a particular state is not an averment
 12 of citizenship in that state for the purpose of jurisdiction.” *Steigleder v. McQuesten*, 198
 13 U.S. 141, 143 (1905). “To be a citizen of a state, a natural person must first be a citizen of
 14 the United States. The natural person’s state citizenship is then determined by her state of
 15 domicile, not her state of residence. A person’s domicile is her *permanent* home, where
 16 she resides with the intention to remain or to which she intends to return.” *Kanter*, 265
 17 F.3d at 858-59 (emphasis added) (citations omitted).

18 Thus, Plaintiff must file an amended complaint¹ that rectifies the identified
 19 deficiency.

20 Accordingly,


21 **IT IS ORDERED** that by August 6, 2025, Plaintiff shall file an amended complaint
 22 establishing the relevant jurisdictional facts, as described in this order.

23 **IT IS FURTHER ORDERED** that if Plaintiff fails to timely file an amended
 24 complaint, the Clerk of the Court shall dismiss this case, without prejudice, for lack of
 25 subject-matter jurisdiction.

26 ///

27
 28 ¹ This amended complaint pursuant to court order will not affect Plaintiff’s right
 under Rule 15(a)(1) to later amend once as a matter of course, if it chooses to do so. *See*,
e.g., *Ramirez v. Cty. of San Bernardino*, 806 F.3d 1002, 1006-09 (9th Cir. 2015).

1 Dated this 23rd day of July, 2025.

2
3 
4 _____
5 Dominic W. Lanza
6 United States District Judge
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28